

REMARKS

Claims 1 – 5 are pending in the instant patent application.

Claims 1 – 5 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,418,417 issued to Corby. The Office Action refers to col. 8, lines 4 – 8 of Corby as disclosing workstations that “allow client-users (traders) of the weather trading organization to remotely access and use the trading system.” The Office Action further asserts that the workstations would inherently have “an interface for capturing executed trade data” as required by claim 1 or have “an interface for transmitting electronic trade tickets” as required by claim 5. The Office Action refers to col. 3, lines 23 – 27 of Corby as disclosing a trading server that “provides the central processing of the system by applying a pricing model, and is responsive to a plurality of internal and external workstations that allow users, via a graphical user interface, to access the trading system.” The Office Action further asserts that such a trading server discloses “a second computer for accepting the captured trade data and performing middle and back office processing on the same” as required in claim 1 and “a second computer for receiving the electronic trade tickets and performing middle and back office processing on the same” as required in claim 5. The Office Action refers to col. 7, lines 2 – 8 of Corby as disclosing “an interactive World-Wide Web site accessible via the global Internet for a future weather index, pricing model, and trade execution services,” which describes “a communication channel for communicating the captured trade data between the first and second computers” as required by claims 1 and 5.

Applicants submit that Corby does not disclose each and every element of the claimed invention and respectfully request the withdrawal of the rejection for the following reasons.

First, the Office Action appears to admit that Corby does not disclose an interface for capturing executed trade data as required in claim 1 nor does Corby disclose an interface for transmitting electronic trade tickets as required in claim 5. Applicants

agree that Corby teaches neither of these elements but respectfully disagrees with the assertion that allowing client-users (traders) of the weather trading organization to remotely access and use the trading system inherently captures executed trade data and transmits electronic trade tickets. In order to establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268 (Fed. Cir. 1991). "Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *In re Oelrich*, 666 F.2d 578, 581 (C.C.P.A. 1981). The fact that a prior art reference is capable of being modified and the modification would anticipate the invention is not sufficient to support anticipation based on inherency. Corby teaches a system and method for valuating weather-based financial instruments, which is not a system for capturing trade information. Even if information entered into Corby's system was the same as some of the information captured in the present invention, that does not mean that the interface of Corby necessarily performs the functions of the present invention. Since the object of Corby is the valuation of a financial instrument, it is not necessary that Corby's interface captures executed trade data or transmits electronic trade tickets. Therefore, Corby does not explicitly or inherently disclose every element of the claimed invention.

Furthermore, the trading server of Corby does not perform the middle and back office processing of the captured trade data or electronic trade tickets. As the Office Action points out, the "trading server provides the central processing of the system by applying a pricing model". This statement supports the object of Corby, which is the valuation of weather-based financial instruments – not a system for capturing trade information. Applying a pricing model, as disclosed in Corby, does not describe the middle and back office processing of the present invention's second computer, which is described in paragraphs 52 – 106 of the Applicants' published application. Corby does not teach or disclose these operations and therefore does not disclose middle and back office processing as required by claims 1 and 5.

Finally, claims 2 – 4 depend on independent claim 1 and include all the limitations of claim 1. Applicants submit that claims 2 – 4 are in condition of allowance because claim 1 is allowable.

Applicants respectfully submit that the rejections of claims 1 – 5 under 35 U.S.C. § 102(e) by Corby have been overcome because Corby does not disclose or teach each and every element of the claimed invention. Applicants respectfully request that the rejection be withdrawn.

Applicants request entry of the foregoing amendments and remarks into the file history of the above-identified application. Applicants believe that each ground for rejection has been successfully overcome and/or obviated, and that all pending claims are in condition for allowance. Withdrawal of the rejections and allowance of the application are respectfully requested.

No fee is believed to be due in connection with filing of the instant request. However, if a fee is due, please charge the required fee to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310.

Respectfully submitted,

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